

Recreation Area in accordance with section 100502 of title 54, United States Code.

SEC. 1755. BOUNDARY SURVEY.

The Secretary (acting through the Director of the National Park Service) shall prepare a boundary survey and legal description of the National Recreation Area.

SA 4170. Mr. MARKEY submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle E of title XII, add the following:

SEC. 1253. COUNTERING CHINA'S PROLIFERATION OF BALLISTIC MISSILES AND NUCLEAR TECHNOLOGY TO THE MIDDLE-EAST.

(a) MTCR TRANSFERS.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a written determination, and any documentation to support that determination detailing—

(1) whether any foreign person in China knowingly exported, transferred, or engaged in trade of any item designated under Category I of the MTCR Annex to any foreign person in the previous three fiscal years; and

(2) the sanctions the President has imposed or intends to impose pursuant to section 11B(b) of the Export Administration Act of 1979 (50 U.S.C. 4612(b)) against any foreign person who knowingly engaged in the export, transfer, or trade of that item or items.

(b) CHINA'S NUCLEAR FUEL CYCLE COOPERATION.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to the appropriate committees of Congress a report detailing—

(1) whether any foreign person in China engaged in cooperation with any other foreign person in the previous three fiscal years in the construction of any nuclear-related fuel cycle facility or activity that has not been notified to the IAEA and would be subject to complementary access if an Additional Protocol was in force; and

(2) the policy options required to prevent and respond to any future effort by China to export to any foreign person an item classified as “plants for the separation of isotopes of uranium” or “plants for the reprocessing of irradiated nuclear reactor fuel elements” under Part 110 of the Nuclear Regulatory Commission export licensing authority.

(c) FORM OF REPORT.—The determination required under subsection (a) and the report required under subsection (b) shall be unclassified with a classified annex.

(d) DEFINITIONS.—In this section:

(1) The term “appropriate committees of Congress” means—

(A) the Select Committee on Intelligence of the Senate;

(B) the Committee on Foreign Relations of the Senate;

(C) the Select Committee on Intelligence of the House of Representatives; and

(D) the Committee on Foreign Affairs of the House of Representatives.

(2) FOREIGN PERSON; PERSON.—The terms “foreign person” and “person” mean—

(A) a natural person that is an alien;

(B) a corporation, business association, partnership, society, trust, or any other non-governmental entity, organization, or group,

that is organized under the laws of a foreign country or has its principal place of business in a foreign country;

(C) any foreign governmental entity operating as a business enterprise; and

(D) any successor, subunit, or subsidiary of any entity described in subparagraph (B) or (C).

SA 4171. Mr. MARKEY submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1548. LIMITATION ON USE OF FUNDS FOR GROUND-BASED STRATEGIC DETERRENT PROGRAM AND W87-1 WARHEAD MODIFICATION PROGRAM.

(a) FINDINGS.—Congress finds the following:

(1) According to the Congressional Budget Office, the projected cost to sustain and modernize the United States nuclear arsenal, as of 2017, “is \$1.2 trillion in 2017 dollars over the 2017–2046 period: more than \$800 billion to operate and sustain (that is, incrementally upgrade) nuclear forces and about \$400 billion to modernize them”. With inflation, the cost rises to \$1,700,000,000,000 and does not include the cost of the additional nuclear capabilities proposed in the 2018 Nuclear Posture Review.

(2) Maintaining and updating the current Minuteman III intercontinental ballistic missiles is possible for multiple decades and, according to the Congressional Budget Office, through 2036, this would cost \$37,000,000,000 less in 2017 dollars than developing and deploying the ground-based strategic deterrent program.

(3) A public opinion poll conducted from October 12 to 28, 2020, by ReThink Media and the Federation of American Scientists found that only 26 percent of registered voters in the United States preferred replacing the Minuteman III intercontinental ballistic missile with the ground-based strategic deterrent, as compared to 60 percent of registered voters who opposed replacing the Minuteman III missile.

(b) LIMITATION ON USE OF FUNDS.—None of the funds authorized to be appropriated or otherwise made available for fiscal year 2022 may be obligated or expended for the ground-based strategic deterrent program or the W87-1 warhead modification program until the later of—

(1) the date on which the Secretary of Defense submits to the appropriate congressional committees a certification that the operational life of Minuteman III intercontinental ballistic missiles cannot be safely extended through at least 2050; and

(2) the date on which the Secretary transmits to the appropriate congressional committees the report required by paragraph (3) of subsection (c), as required by paragraph (4) of that subsection.

(c) INDEPENDENT STUDY ON EXTENSION OF MINUTEMAN III INTERCONTINENTAL BALLISTIC MISSILES.—

(1) INDEPENDENT STUDY.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall seek to enter into a contract with the National Academy of Sciences to conduct a study on

extending the life of Minuteman III intercontinental ballistic missiles to 2050.

(2) MATTERS INCLUDED.—The study under paragraph (1) shall include the following:

(A) A comparison of the costs through 2050 of—

(i) extending the life of Minuteman III intercontinental ballistic missiles; and

(ii) deploying the ground-based strategic deterrent program.

(B) An analysis of opportunities to incorporate technologies into the Minuteman III intercontinental ballistic missile program as part of a service life extension program that could also be incorporated in the future ground-based strategic deterrent program, including, at a minimum, opportunities to increase the resilience against adversary missile defenses.

(C) An analysis of the benefits and risks of incorporating sensors and nondestructive testing methods and technologies to reduce destructive testing requirements and increase the service life and number of Minuteman III missiles through 2050.

(D) An analysis and validation of the methods used to estimate the operational service life of Minuteman II and Minuteman III motors, taking into account the test and launch experience of motors retired after the operational service life of such motors in the rocket systems launch program.

(E) An analysis of the risks and benefits of alternative methods of estimating the operational service life of Minuteman III motors, such as those methods based on fundamental physical and chemical processes and non-destructive measurements of individual motor properties.

(F) An analysis of risks, benefits, and costs of configuring a Trident II D5 submarine launched ballistic missile for deployment in a Minuteman III silo.

(G) An analysis of the impacts of the estimated service life of the Minuteman III force associated with decreasing the deployed intercontinental ballistic missiles delivery vehicle force from 400 to 300.

(H) An assessment on the degree to which the Columbia class ballistic missile submarines will possess features that will enhance the current invulnerability of ballistic missile submarines of the United States to future antisubmarine warfare threats.

(I) An analysis of the degree to which an extension of the Minuteman III would impact the decision of Russian Federation to target intercontinental ballistic missiles of the United States in a crisis, as compared to proceeding with the ground-based strategic deterrent.

(J) A best case estimate of what percentage of the strategic forces of the United States would survive a counterforce strike from the Russian Federation, broken down by intercontinental ballistic missiles, ballistic missile submarines, and heavy bomber aircraft.

(K) The benefits, risks, and costs of relying on the W-78 warhead for either the Minuteman III or a new ground-based strategic deterrent missile as compared to proceeding with the W-87 life extension.

(L) The benefits, risks, and costs of adding additional launchers or uploading submarine-launched ballistic missiles with additional warheads to compensate for a reduced deployment of intercontinental ballistic missiles of the United States.

(M) An analysis of whether designing and fielding a new intercontinental ballistic missile through at least 2070 is consistent with the obligation of the United States under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons done at Washington, London, and Moscow July 1, 1968 (21 UST 483) (commonly referred to as the “Nuclear Non-Proliferation Treaty”) to “pursue

negotiations in good faith on effective measures relating to cessation of the nuclear arms race at an early date and to nuclear disarmament”.

(3) **SUBMISSION TO DEPARTMENT OF DEFENSE.**—Not later than 180 days after the date of the enactment of this Act, the National Academy of Sciences shall submit to the Secretary a report containing the findings of the study conducted under paragraph (1).

(4) **SUBMISSION TO CONGRESS.**—Not later than 210 days after the date of the enactment of this Act, the Secretary shall transmit to the appropriate congressional committees the report required by paragraph (3), without change.

(5) **FORM.**—The report required by paragraph (3) shall be submitted in unclassified form, but may include a classified annex.

(d) **APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.**—In this section, the term “appropriate congressional committees” means—

(1) the Committee on Armed Services, the Committee on Foreign Relations, and the Committee on Appropriations of the Senate; and

(2) the Committee on Armed Services, the Committee on Foreign Affairs, and the Committee on Appropriations of the House of Representatives.

SA 4172. Mr. MARKEY (for himself, Ms. SMITH, and Mr. MERKLEY) submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1548. RESTRICTION ON FIRST-USE STRIKE OF NUCLEAR WEAPONS.

(a) **FINDINGS AND DECLARATION OF POLICY.**—

(1) **FINDINGS.**—Congress finds the following:

(A) The Constitution gives Congress the sole power to declare war.

(B) The framers of the Constitution understood that the monumental decision to go to war, which can result in massive death and the destruction of civilized society, must be made by the representatives of the people and not by a single person.

(C) As stated by section 2(c) of the War Powers Resolution (Public Law 93-148; 50 U.S.C. 1541), “the constitutional powers of the President as Commander-in-Chief to introduce United States Armed Forces into hostilities, or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, are exercised only pursuant to (1) a declaration of war, (2) specific statutory authorization, or (3) a national emergency created by attack upon the United States, its territories or possessions, or its armed forces”.

(D) Nuclear weapons are uniquely powerful weapons that have the capability to instantly kill millions of people, create long-term health and environmental consequences throughout the world, directly undermine global peace, and put the United States at existential risk from retaliatory nuclear strikes.

(E) A first-use nuclear strike carried out by the United States would constitute a major act of war.

(F) A first-use nuclear strike conducted absent a declaration of war by Congress would violate the Constitution.

(G) The President has the sole authority to authorize the use of nuclear weapons, an order which military officers of the United States must carry out in accordance with their obligations under the Uniform Code of Military Justice.

(H) Given its exclusive power under the Constitution to declare war, Congress must provide meaningful checks and balances to the President's sole authority to authorize the use of a nuclear weapon.

(2) **DECLARATION OF POLICY.**—It is the policy of the United States that no first-use nuclear strike should be conducted absent a declaration of war by Congress.

(b) **PROHIBITION ON CONDUCT OF FIRST-USE NUCLEAR STRIKES.**—

(1) **PROHIBITION.**—No Federal funds may be obligated or expended to conduct a first-use nuclear strike unless such strike is conducted pursuant to a war declared by Congress that expressly authorizes such strike.

(2) **FIRST-USE NUCLEAR STRIKE DEFINED.**—In this subsection, the term “first-use nuclear strike” means an attack using nuclear weapons against an enemy that is conducted without the Secretary of Defense and the Chairman of the Joint Chiefs of Staff first confirming to the President that there has been a nuclear strike against the United States, its territories, or its allies (as specified in section 3(b)(2) of the Arms Export Control Act (22 U.S.C. 2753(b)(2))).

SA 4173. Mr. MARKEY submitted an amendment intended to be proposed to amendment SA 3867 submitted by Mr. REED and intended to be proposed to the bill H.R. 4350, to authorize appropriations for fiscal year 2022 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe military personnel strengths for such fiscal year, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title XV, add the following:

SEC. 1548. REDUCTIONS IN SPENDING ON NUCLEAR WEAPONS; PROHIBITION ON PROCUREMENT AND DEPLOYMENT OF LOW-YIELD NUCLEAR WARHEADS.

(a) **FINDINGS.**—Congress makes the following findings:

(1) The United States continues to maintain an excessively large and costly arsenal of nuclear delivery systems and warheads that are a holdover from the Cold War.

(2) The current nuclear arsenal of the United States includes approximately 3,800 total nuclear warheads in its military stockpile, of which approximately 1,750 are deployed with five delivery components: land-based intercontinental ballistic missiles, submarine-launched ballistic missiles, long-range strategic bomber aircraft armed with nuclear gravity bombs, long-range strategic bomber aircraft armed with nuclear-armed air-launched cruise missiles, and short-range fighter aircraft that can deliver nuclear gravity bombs. The strategic bomber fleet of the United States comprises 87 B-52 and 20 B-2 aircraft, over 60 of which contribute to the nuclear mission. The United States also maintains 400 intercontinental ballistic missiles and 14 Ohio-class submarines, up to 12 of which are deployed. Each of those submarines is armed with approximately 90 nuclear warheads.

(3) Between fiscal years 2021 and 2030, the United States will spend an estimated

\$634,000,000,000 to maintain and recapitalize its nuclear force, according to a January 2019 estimate from the Congressional Budget Office, an increase of \$140,000,000,000 from the Congressional Budget Office's 2019 estimate, with 36 percent of that additional cost stemming “mainly from new plans for modernizing [the Department of Energy's] production facilities and from [the Department of Defense's] modernization programs moving more fully into production”.

(4) Adjusted for inflation, the Congressional Budget Office estimates that the United States will spend \$1,700,000,000,000 through fiscal year 2046 on new nuclear weapons and modernization and infrastructure programs.

(5) Inaccurate budget forecasting is likely to continue to plague the Department of Defense and the Department of Energy, as evidenced by the fiscal year 2021 budget request of the President for the National Nuclear Security Administration “Weapon Activities” account, which far exceeded what the National Nuclear Security Administration had projected in its fiscal year 2020 request and what it had projected in previous years.

(6) The projected growth in nuclear weapons spending is coming due as the Department of Defense is seeking to replace large portions of its conventional forces to better compete with the Russian Federation and the People's Republic of China and as internal and external fiscal pressures are likely to limit the growth of, and perhaps reduce, military spending. As then-Air Force Chief of Staff General Dave Goldfein said in 2020, “I think a debate is that this will be the first time that the nation has tried to simultaneously modernize the nuclear enterprise while it's trying to modernize an aging conventional enterprise. The current budget does not allow you to do both.”.

(7) In 2017, the Government Accountability Office concluded that National Nuclear Security Administration's budget forecasts for out-year spending downplayed the fact that the agency lacked the resources to complete multiple, simultaneous billion dollar modernization projects and recommended that the National Nuclear Security Administration consider “deferring the start of or cancelling specific modernization programs”.

(8) According to the Government Accountability Office, the National Nuclear Security Administration has still not factored affordability concerns into its planning as was recommended by the Government Accountability Office in 2017, with the warning that “it is essential for NNSA to present information to Congress and other key decision maker indicating whether the agency has prioritized certain modernization programs or considered trade-offs (such as deferring or cancelling specific modernization programs)”.

(9) A December 2020 Congressional Budget Office analysis showed that the projected costs of nuclear forces over the next decade can be reduced by \$12,400,000,000 to \$13,600,000,000 by trimming back current plans, while still maintaining a triad of delivery systems. Even larger savings would accrue over the subsequent decade.

(10) The Department of Defense's June 2013 nuclear policy guidance entitled “Report on Nuclear Employment Strategy of the United States” found that force levels under the April 2010 Treaty on Measures for the Further Reduction and Limitation of Strategic Offensive Arms between the United States and the Russian Federation (commonly known as the “New START Treaty”) “are more than adequate for what the United States needs to fulfill its national security objectives” and can be reduced by up to ⅓ below levels under the New START Treaty to 1,000 to 1,100 warheads.